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In re Application of
Gregory Blank
Application No. 09/964,216
Filed: September 26, 2001
Atty Docket No. P1065R1C2

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: **OFFICE OF PETITIONS**
: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
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:

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)," filed November 18, 2003. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from twenty-nine (29) days to fifty-eight (58) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is fifty-eight (58) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 29, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 29 days. On April 14, 2003, patentee timely submitted the instant request for reconsideration of the patent term adjustment¹.

This initial determination of patent term adjustment was based on an adjustment of 119 days pursuant to § 1.702(a)(1) and § 1.703(a)(1) reduced by two periods of 61 days and 29 days respectively pursuant to § 1.704(b). There is no dispute as to the adjustment of 119 days or the reduction of 61 days. Applicant contends that the reduction of 29 days is in error. Applicant states that the error in the Office's calculation appears to result from a duplicate PALM entry on September 23, 2003, for a terminal disclaimer that was filed and noted in PALM on August 25, 2003. Applicant states that the interval between August 25 and September 23 led to the additional "applicant delay" of 29 days.

Applicant's arguments are well-taken. Applicant states, and the record discloses, that only a single terminal disclaimer was filed in this application. Further, that terminal disclaimer (with statutory disclaimer fee) was filed on August 25, 2003, and

¹ The Issue Fee payment was received in the Office on December 10, 2003.

is noted as accepted on the Notice of Allowability mailed September 29, 2003. There is no record of a terminal disclaimer or any other paper filed in this application on September 23, 2003. Accordingly, the reduction of 29 days is found to be improper.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 58 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen